

**UNITED STATES DISTRICT COURT**

## DISTRICT OF NEVADA

Alden A. Thomas, Sr.,

Plaintiff

V.

California Department of Correction and  
Rehabilitation, et al.,

## Defendants

Case No.: 2:17-cv-02877-JAD-PAL

**Order Denying Motion for Default  
Judgment and Directing Further Action  
to Avoid Dismissal**

ECF No. 8

On November 14, 2017, Alden A. Thomas, Sr. filed a handful of documents that appear to be from a California court. Indeed, the bottom of the documents reflect that the forms that Thomas has filed are California state court forms. It is unclear to this court what the purpose of this action is, and why this court has jurisdiction over it. The best I can determine is that Thomas is an inmate at the Centinela State Prison in Imperial, California, and he claims that he has a judgment against the California Department of Corrections and Rehabilitation.

This action has also been improperly commenced. The Federal Rules of Civil Procedure explain that “There is one form of action—the civil action,” and that action “is commenced by filing a complaint with the court.”<sup>1</sup> Thomas has not filed a complaint in this case. He also has failed to pay the \$400 filing fee (\$350 filing fee plus \$50 administrative fee) required for all civil actions or seek *in forma pauperis* (IFP) status. I will give Thomas 30 days to file a proper complaint, and to either pay the \$400 filing fee or submit a fully completed IFP application, and I will direct the Clerk of Court to send him the inmate IFP application packet and the proper

<sup>1</sup> Fed. R. Civ. P. 2, 3.

1 form for a pro se civil complaint. If Thomas fails to pay the fee or file an IFP application, or he  
2 fails to file a proper complaint by this deadline, this case will be dismissed.

3 Among Thomas's filings is a motion for default judgment to be entered in accordance  
4 with various California Code provisions. This motion suggests to me that Thomas has filed this  
5 action in the wrong court (how the federal court, particularly the U.S. District Court for the  
6 District of Nevada, has jurisdiction over his matter is not explained in, nor apparent from, any of  
7 his filings). But even if Thomas intended to file this motion in this court, he is not entitled to the  
8 relief he is requesting. A default judgment is available only after the Clerk has entered default  
9 against a defendant who has failed to respond to a suit after being served with the summons and  
10 complaint.<sup>2</sup> With no complaint filed or summons issued in this case, Thomas has skipped every  
11 step that must be completed in order to earn a default judgment. Accordingly, the Motion for  
12 Clerk to Enter Judgment [ECF No. 8] is DENIED.

### 13 Conclusion

14 IT IS THEREFORE ORDERED that **Thomas has until August 22, 2018, to (1) file a**  
15 **proper complaint, and to (2) either (a) pay the \$400 filing fee or (b) submit a fully**  
16 **completed *in forma pauper* application. If Thomas fails to pay the fee or file an IFP**  
17 **application, or he fails to file a proper complaint by this deadline, this case will be**  
18 **dismissed** without further prior notice. I direct the Clerk of Court to send Thomas the  
19 inmate IFP application packet and the proper form for a pro se civil complaint.

20 . . .

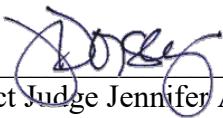
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<sup>2</sup> See Fed. R. Civ. P. 55.

1 IT IS FURTHER ORDERED that the Motion for Clerk to Enter Judgment [ECF No. 8]  
2 is **DENIED**.

3 Dated: July 23, 2018

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5 U.S. District Judge Jennifer A. Dorsey  
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